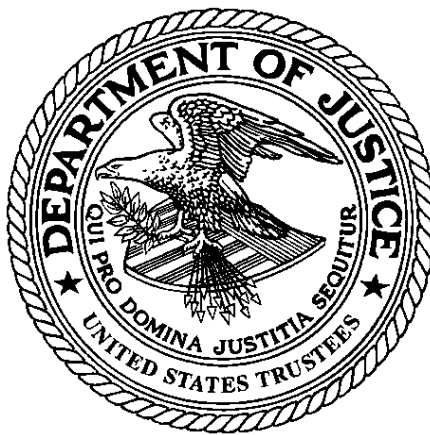


UNITED STATES TRUSTEE REGION 16 - THE CENTRAL DISTRICT OF CALIFORNIA



BANKRUPTCY PETITION PREPARER/ ATTORNEY USE AND INCOME LEVEL CORRELATION -

A STUDY OF HOW MANY DEBTORS LISTED AS FILING *PRO SE* ACTUALLY
USE BANKRUPTCY PETITION PREPARERS OR ATTORNEYS AND INCOME
LEVEL CORRELATION TO SUCH USE IN CHAPTER 7 CONSUMER DEBTORS
FILING IN JUNE AND JULY 2002 IN THE CENTRAL DISTRICT OF CALIFORNIA

Report issued November 7, 2003

Introduction

The use of unlicensed bankruptcy petition preparers in the Central District of California has been a topic of attention and discussion for many years. In 1994, the *pro se* filing rate was 41% for Chapter 7 debtors and 44% for Chapter 13 debtors in the district. Following the enactment of 11 U.S.C. § 110, numerous procedures adopted by the Bankruptcy Court, and an increased emphasis on enforcement of Section 110 by the United States Trustee, in 2002 the *pro se* rate dropped to 28% of all Chapter 7 debtors and 22% of all Chapter 13 debtors.

Because of the time and resource limitations on gathering empirical data for purposes of studying the nature of this problem, much of the discussion has had to be based on certain assumptions. It has been widely assumed throughout this time that most of these *pro se* debtors do use bankruptcy petition preparers ("BPP's") to prepare and file their bankruptcy cases, whether or not this use is disclosed when they file. In order to determine how many of these debtors actually prepare the case on their own, or truly *pro se*, it is necessary for someone familiar with how to detect both disclosed and undisclosed BPPs to examine each individual petition carefully - a very time-consuming task. Secondary assumptions throughout the analysis have been that these debtors cannot afford attorneys and the cost of an attorney is significantly higher than the cost of a BPP.^{1/}

The Office of the United States Trustee was able, through the assistance of summer externs, to examine every single consumer Chapter 7 bankruptcy filed for a two-month period throughout the district. Over 10,000 petitions were examined and tallied in an attempt to gather data to answer the above outstanding questions. We felt that the analysis of the petition preparer question should continue as much as possible based on real information instead of widely-held assumptions.

The results of the study described in the following pages demonstrate that the two above assumptions were essentially correct. Only 3% of all debtors were truly *pro se* - the rest used either a BPP or an attorney. Debtors using BPPs were generally in a lower income bracket. The difference between average BPP fees and average attorney fees was over \$600 - a substantial sum for most income brackets utilizing BPPs.

^{1/} On December 19, 2001, the Bankruptcy Petition Preparers and the Unauthorized Practice of Law Subcommittee of the Bankruptcy Committee of the Commercial Law and Bankruptcy Section of the Los Angeles County Bar Association issued a report concerning petition preparers assisting *pro se* debtors with their bankruptcy filings. (A copy of this study is available at www.LACBA.org on the Commercial Law and Bankruptcy Section page.) Two central questions were also left open by that report due to a lack of staff and time to analyze thousands of individual bankruptcy petitions: 1) how many of the *pro se* debtors actually used bankruptcy petition preparers or were truly *pro se*, and 2) how did their incomes compare to those debtors who sought the assistance of an attorney.

This study is narrow and answers solely those questions that can be answered from data listed by the debtor on the initial filing documents in a case. No follow up interviews were conducted, and no additional investigation was done to verify the information provided on the petition and schedules. Chapter 13 BPP use and fees were not analyzed.

We had planned to have a follow up study of a different time period with additional analysis to include when we released this data, but time and resources did not allow that to happen. From a random check of other cases during other times of year, we believe June and July 2002 to be fairly representative of debtor BPP and attorney use in general.^{2/}

As you will see as you read through the data that follows, many of the findings simply raise additional questions. I encourage both the office and other groups to continue to study this issue and make decisions based on as much verifiable data as possible. The study reinforces one assumption many of us have had for some time - there are significant access to the legal system issues raised by the *pro se* population in this district. Knowing more about this population may assist in finding solutions.

Maureen A. Tighe
United States Trustee
November 7, 2003

^{2/} Many thanks to all who assisted with this study. Special thanks go to Zehra Mirza, Christine Cartwright, Sonny Flores and Vinhloc Nguyenphuoc.

Overview of The Study

This study is based on all chapter 7 bankruptcy filings within the Central District of California, including the Los Angeles, Riverside, Santa Ana, San Fernando Valley, and Northern Divisions, for the period June through July 2002. The population of filings for these two months totaled 10,380. Key points from this study are as follows:

- # Within this population on average:
 - # 3% of debtors filed *pro se*,
 - # 23% used a BPP, and
 - # a full 73% used an attorney.^{3/}
- # Although single debtors matched the average *pro se* filings at 3%, they used BPPs slightly more, in 26% of their filings, and obtained the assistance of attorneys less frequently, in 70% of their cases.
- # Married debtors filing alone (i.e., where only one of the spouses filed) had very similar percentages to the average. Married debtors filing jointly, however, used BPPs less often, in only 16% of their bankruptcy filings, and attorneys substantially more frequently, in 81% of their filings.
- # The average gross income in the total population of filers is low, with a range from about \$21,600 for single filers to about \$36,000 for married couples filing jointly per year.
 - # Of single debtors, 15% fall below poverty level and 17% fall within the modest means level.
 - # Of married debtors filing single, 15% fall below the poverty level and 12% fall within modest means level.
 - # Of married debtors filing jointly, 5% fall below poverty level and 7% fall within the modest means level.
- # Income ranges did not vary significantly with different numbers of dependents within various families. What was significant is the generally low income levels:

^{3/} Percentages throughout may not total 100% because some bankruptcy filings during the study period were not complete, and data was not available to determine the category within which to place that filing.

- # Single parents supporting one to five children earn, on average, between approximately \$2,000 to \$2,400 per month, or between \$24,000 and \$28,800 per year.
- # Married couples with one to eight children earn between approximately \$2,200 to \$4,000 per month, or \$26,400 to \$48,000 per year.
- # *Pro se* debtors and debtors using BPPs had an average gross income of between \$1,600 to \$1,700 per month. Those debtors choosing to use attorneys had an average gross income of about \$2,250 per month.
- # The average fee paid to a Bankruptcy Petition Preparer was \$200 while an attorney cost the debtors about \$850 on average.

A. Income Levels - Defined

Income levels reported on petitions were tracked according to the way petitions were filed - single, married but filing alone ("MFS"), and married and filing jointly ("MFJ"). Because married debtors filing alone often do not disclose the non-filing spouse's income, total family income could not be determined for any analysis of that category's income level.

"Modest means" is a general category used by many bar associations to refer clients to private attorneys for a reduced fee where the client cannot afford a full-priced attorney, but does not qualify for free legal assistance. As there is no generally accepted definition of modest means, we chose to combine two ranges of income above poverty level as the modest means level in this study, as follows:

- 1) Just above poverty level to 125% of poverty level, and
- 2) Just above 125% of poverty level to 150% of poverty level.

We discovered different agencies use either one or the other of the above criteria for their definition of modest means. Details for each range of income are provided in exhibits attached to this report. Poverty levels are provided by the U.S. Bureau of the Census and are included in the "Summary" section of this study. An analysis of bankruptcy cases in which the debtors indicate their income levels are below poverty level, within modest means, and above modest means follows:

Income Levels	Single		MFS		MFJ		Totals	
Poverty Level	806	15%	277	15%	130	5%	1213	13%
Modest Means	886	17%	208	12%	195	7%	1289	13%
Above Modest Means	3538	67%	1307	72%	2463	87%	7308	74%

Although a large majority of debtors were above modest means, only 832, or 8% of the total had income of more than \$4000 per month. The following debtors listed income on their bankruptcy schedules at above modest means level but below \$4,000 per month:

	# of debtors > modest means < \$4,000/month in income	% of total debtors
Single	3416	35%
MFS	1211	12%
MFJ	1849	19%
Totals	6476	66%

B. Income Levels by Type of Assistance

A summary of the income levels by type of assistance, i.e., attorney, BPP, and *pro se* filing, follows.

	Attorney		BPP		Pro Se		Totals	
Single:								
Poverty Level	490	14%	261	19%	40	24%	791	15%
Modest Means	552	15%	293	21%	28	17%	873	17%
Above Modest Means	2579	71%	823	66%	97	59%	3499	68%
Totals	3621		1377		165		5163	
MFS:								
Poverty Level	192	14%	75	20%	8	19%	275	16%
Modest Means	152	11%	49	13%	6	14%	207	12%
Above Modest Means	1010	75%	257	67%	29	67%	1296	73%
Totals	1354		381		43		1778	
MFJ:								
Poverty Level	92	4%	31	7%	5	13%	128	5%
Modest Means	158	7%	31	7%	6	15%	195	7%
Above Modest Means	2027	89%	385	86%	29	73%	2441	88%
Totals	2277		447		40		2764	

This study also examined the use of possible BPPs by income level and marital status. These are filings in which we suspected BPPs were involved, although not indicated in the bankruptcy filings. Income levels were also broken down by Division within the Central District of California and by the type of assistance attorneys provided, either general scope or limited scope.

C. **Professional Fees**

The average professional fees were \$855 for attorneys and \$200 for BPPs. The attorney fees varied somewhat by Division as summarized in the chart on page P of the attached exhibits. The San Fernando Valley Division had the highest average attorney fees, and the Santa Ana Division had the lowest average attorney fees.

Fees by type of assistance as well as marital status follow:

Type of Assistance	Marital Status	Average Professional Fee
Attorney	S	\$808.82
	MFS	831.13
	MFJ	920.88
BPP	S	197.34
	MFS	202.43
	MFJ	201.94

The scope of attorney representation compared with fees charged were also examined. Because of the variations in which attorneys reported the extent of their assistance, it is hard to draw any broad conclusions concerning the extent of assistance provided in the course of the case in exchange for the fee listed. As a general matter, attorneys who provided only "limited scope" representations did not agree to represent debtors on motions to lift the automatic stay or any adversary proceedings. Some also did not agree to attend the 341 meeting, but the extent to which the limited scope appearances excluded the 341 appearance could not be tracked well enough in this study from the petitions alone to include such detail in this study.

The fees were reported as follows:

Extent of Attorney Representation	Average Fee
General Scope	\$920.43
Limited Scope	850.17

D. **Conclusions**

- # Only 3% of debtors in the Central District of California are truly filing in what we traditionally have thought of as *pro se* status, i.e., preparing their pleadings on their own.
- # Single debtors in the poverty and modest means levels of income are the largest groups using BPPs.
- # A substantial number of debtors appear to need further assistance with their bankruptcy filings and do not feel they can file without any assistance at all.
- # The cost of private attorney assistance appears prohibitive for many income levels, given average attorney fees of over \$850.

EXHIBITS

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EXHIBITS

Table of Abbreviations

BPP Bankruptcy Petition Preparer

Marital Status

MFJ Married Filing Jointly

MFS Married Filing Single

S Single

PVT Poverty Threshold

Divisions

LA Los Angeles

ND Northern Division

RS Riverside

SA Santa Ana

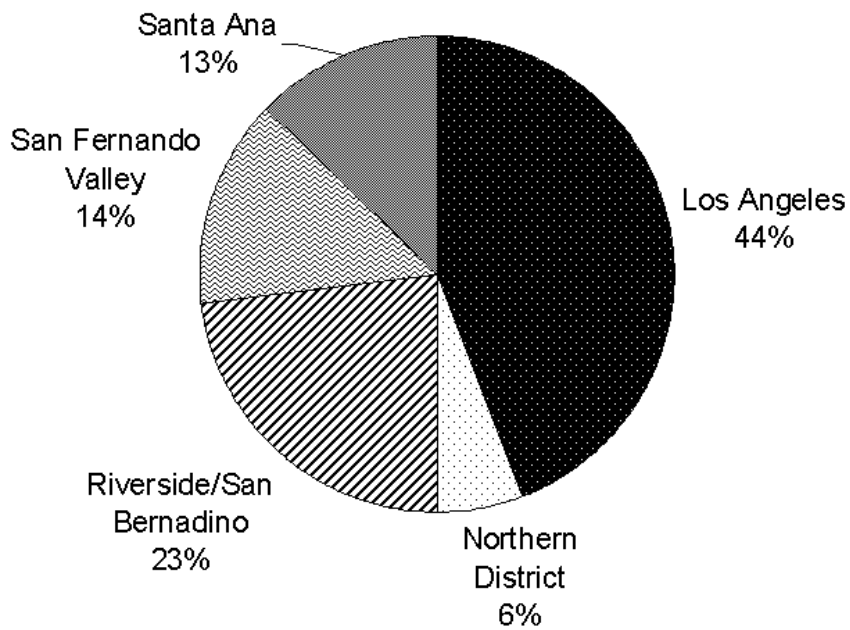
SFV San Fernando Valley

POVERTY THRESHOLDS

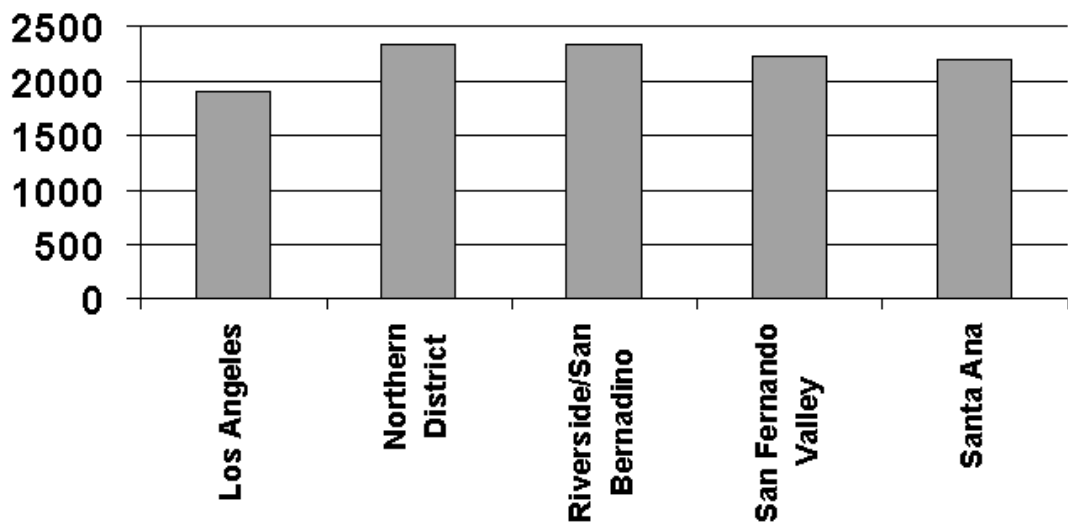
Marital Status	Poverty Threshold ¹	125% of Poverty Threshold	150% of Poverty Threshold
Single	\$754	\$942.50	\$1131
MFS	754	942.50	1131
MFJ	963	1203.75	1444

¹ U.S. Bureau of the Census

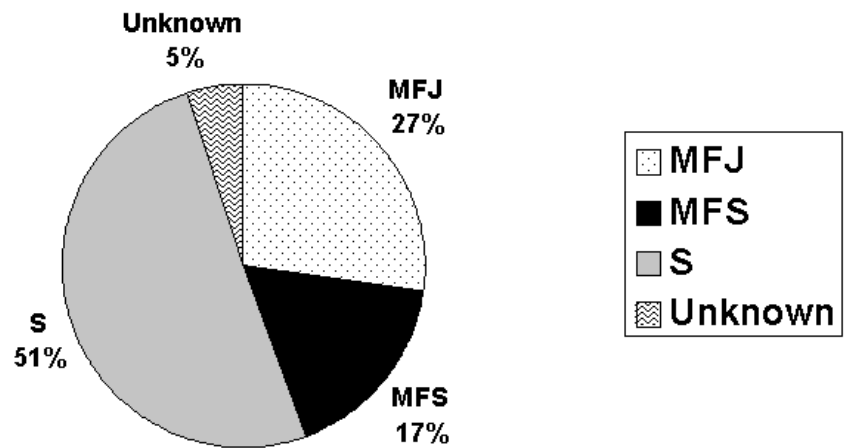
% of Cases Included in the Study Filed by Division



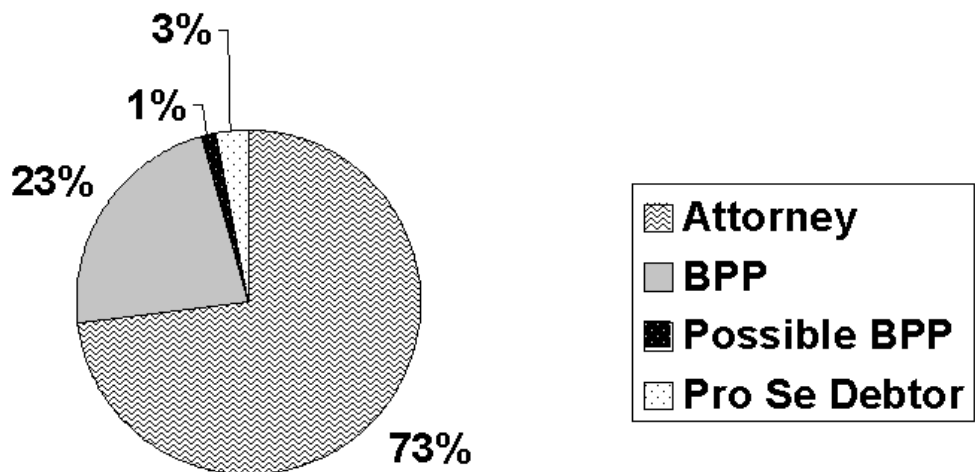
Average Gross Monthly Income by Division



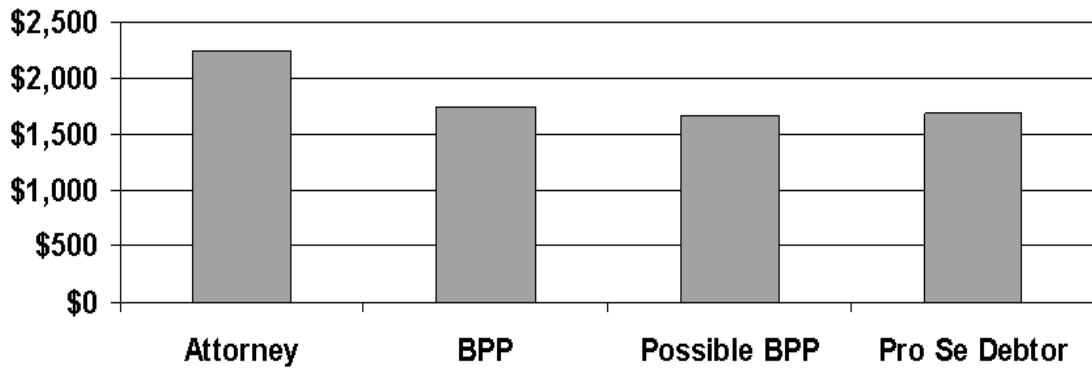
Marital Status



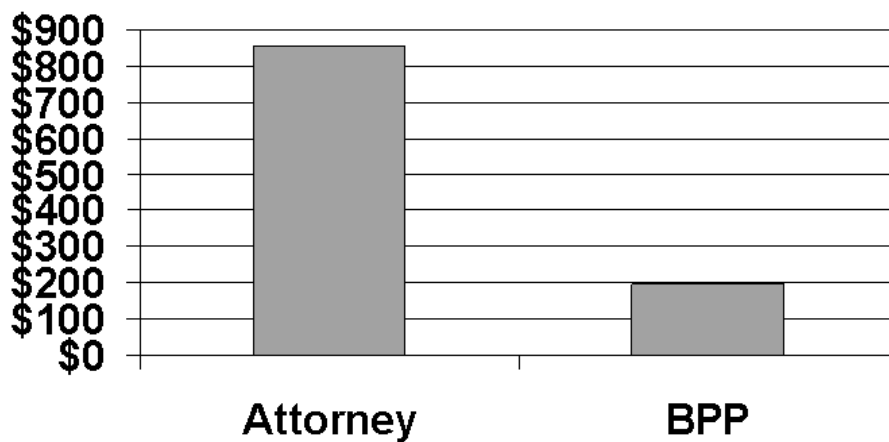
Type of Assistance



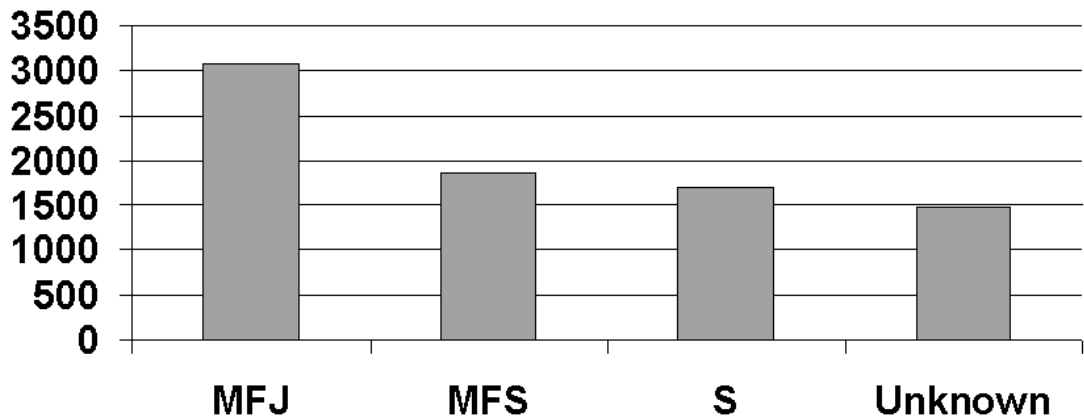
Average Monthly Gross Income by Type of Assistance



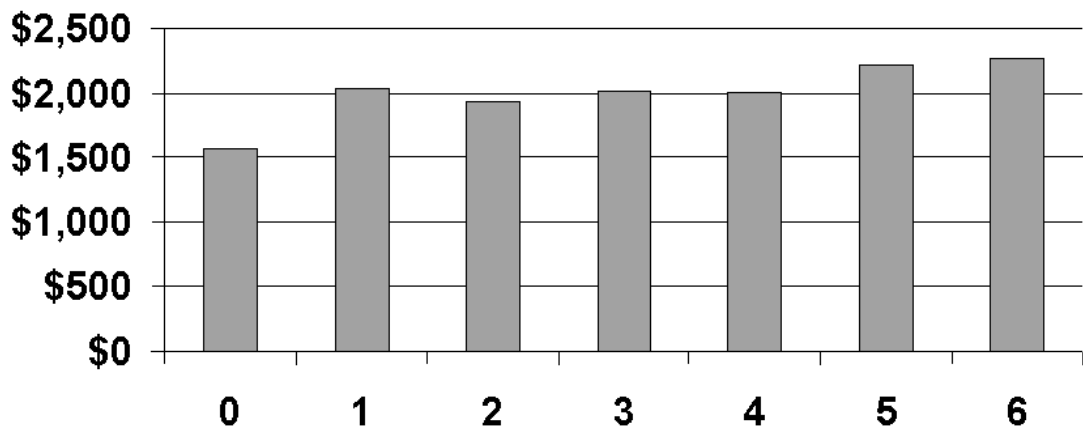
Average Professional Fees



Average Gross Monthly Income by Marital Status



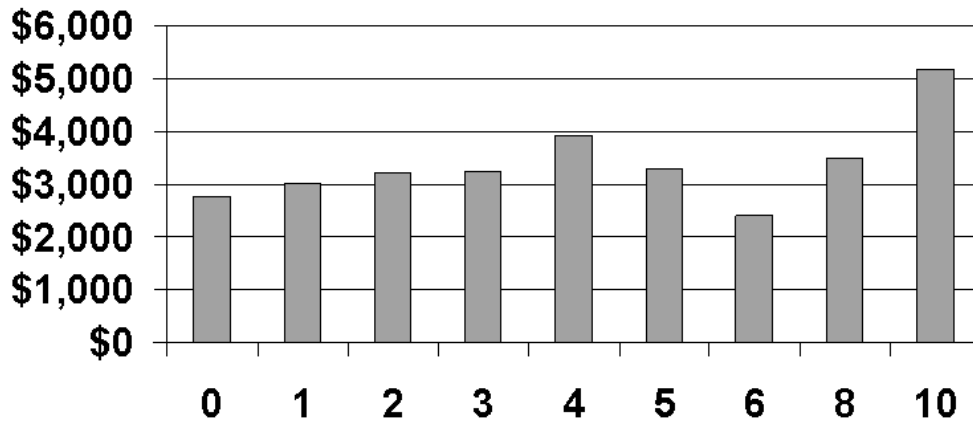
Single: Average Gross Monthly Income by Number of Children



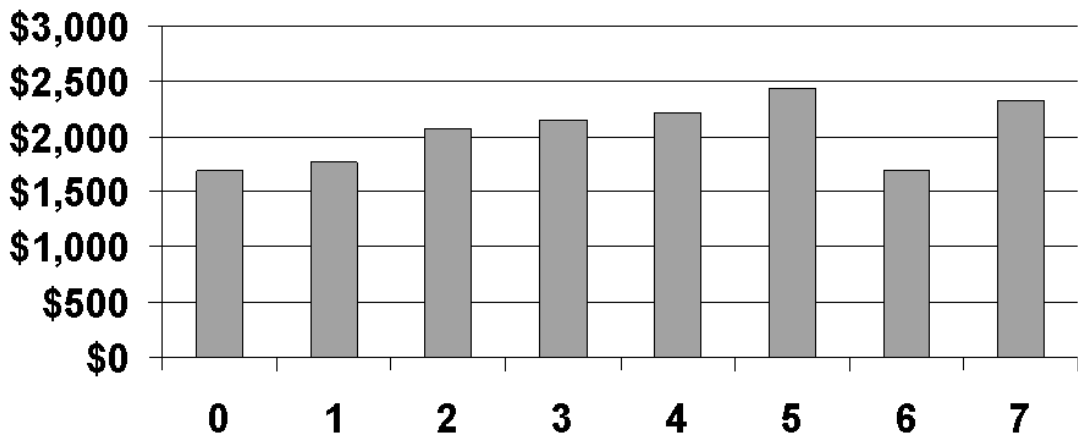
Income Levels by Marital Status

	Single		MFS		MFJ	
	#	%	#	%	#	%
≤ PVT	806	15%	277	15%	130	5%
\$1 above PVT ≤ 125%	416	8%	89	5%	84	3%
\$1 above 125% ≤ 150%	470	9%	119	7%	111	4%
\$1 above 150% ≤ \$4000	3416	65%	1211	67%	1849	65%
>4000	122	2%	96	5%	614	22%
Total	5230		1792		2788	

MFJ: Average Gross Monthly Income by Number of Children



MFS: Average Gross Monthly Income by Number of Children



Income Levels By Type of Assistance

Single

	Attorney		BPP		Possible BPP		Pro Se Debtor	
	#	%	#	%	#	%	#	%
≤ PVT	490	14%	261	19%	15	22%	40	24%
\$1 above PVT ≤ 125%	263	7%	139	10%	7	10%	7	4%
\$1 above 125% ≤ 150%	289	8%	154	11%	6	9%	21	13%
\$1 above 150% ≤ \$4000	2477	68%	806	59%	38	57%	95	58%
>4000	102	3%	17	1%	1	1%	2	1%
Total	3621		1377		67		165	

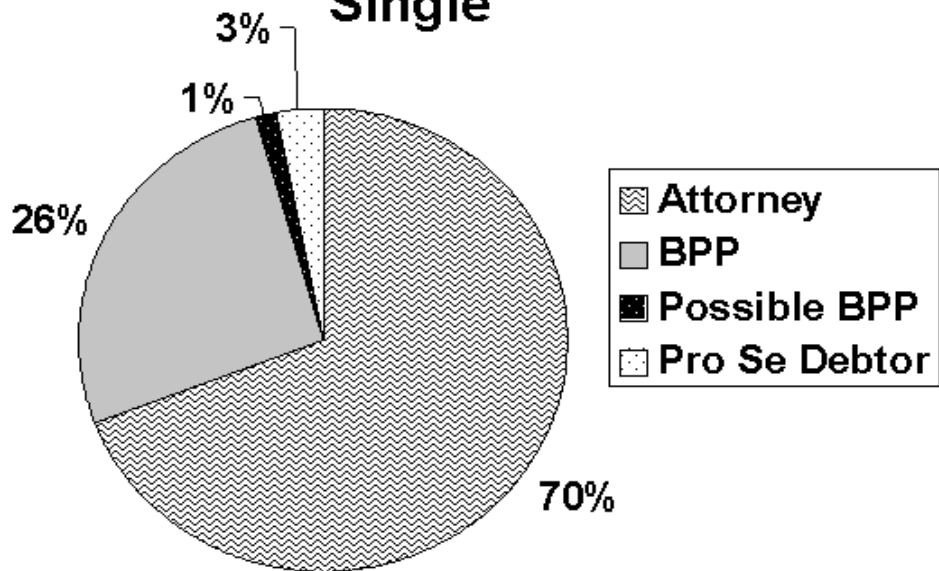
MFS

	Attorney		BPP		Possible BPP		Pro Se Debtor	
	#	%	#	%	#	%	#	%
≤ PVT	192	14%	75	20%	2	14%	8	19%
\$1 above PVT ≤ 125%	59	4%	28	7%	1	7%	1	2%
\$1 above 125% ≤ 150%	93	7%	21	5%	0	0%	5	12%
\$1 above 150% ≤ \$4000	927	68%	247	65%	11	79%	26	60%
>4000	83	6%	10	3%	0	0%	3	7%
Total	1354		381		14		43	

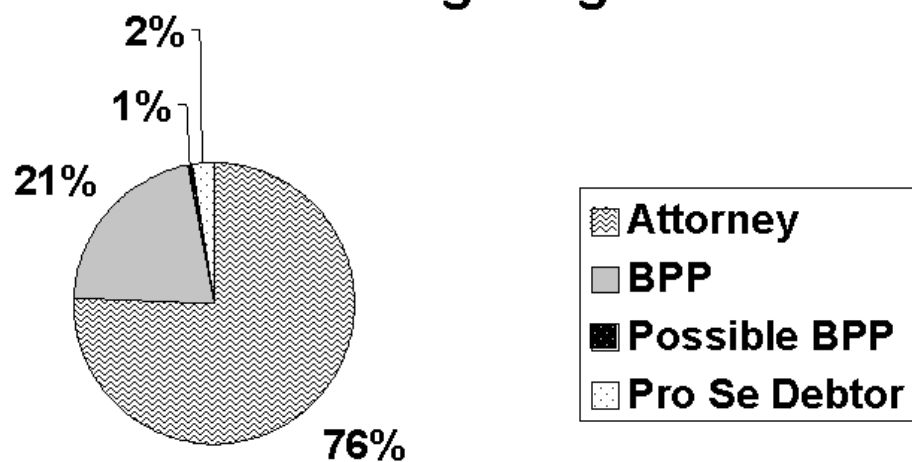
MFJ

	Attorney		BPP		Possible BPP		Pro Se Debtor	
	#	%	#	%	#	%	#	%
≤ PVT	92	4%	31	7%	2	8%	5	12%
\$1 above PVT ≤ 125%	71	3%	12	3%	0	0%	1	2%
\$1 above 125% ≤ 150%	87	4%	19	4%	0	0%	5	12%
\$1 above 150% ≤ \$4000	1468	64%	336	75%	20	83%	25	63%
>4000	559	25%	49	11%	2	8%	4	10%
Total	2277		447		24		40	

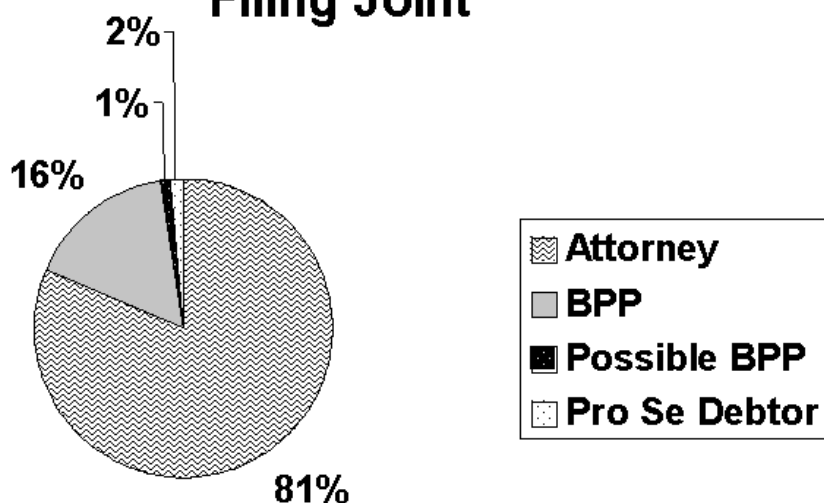
Type of Assistance Single



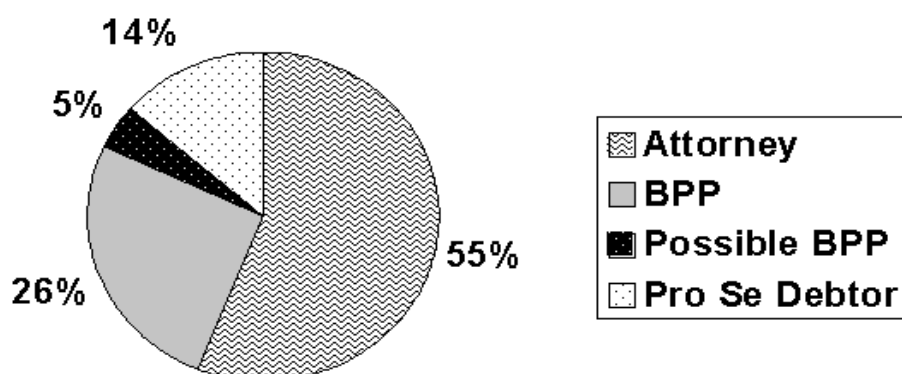
Type of Assistance Married Filing Single



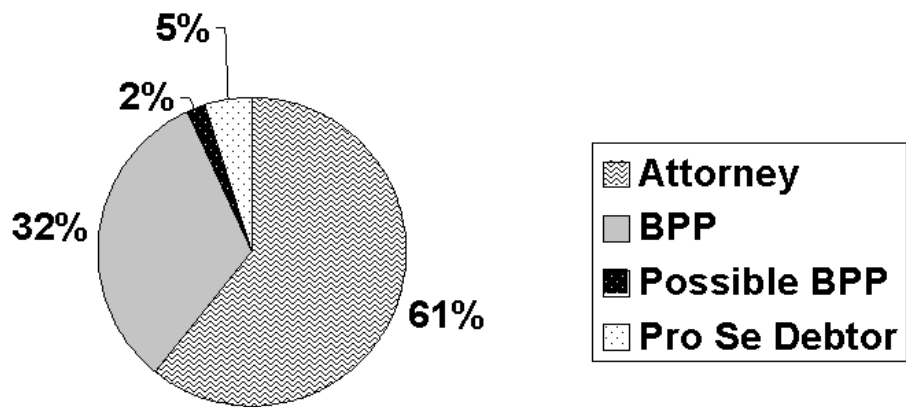
Type of Assistance Married Filing Joint



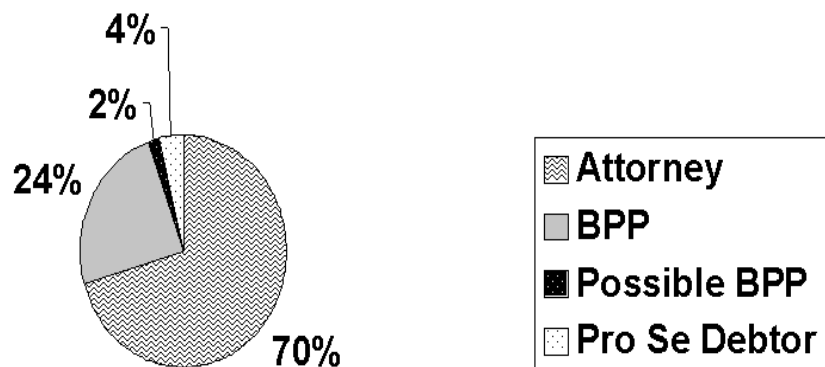
Type of Assistance Unknown Marital Status



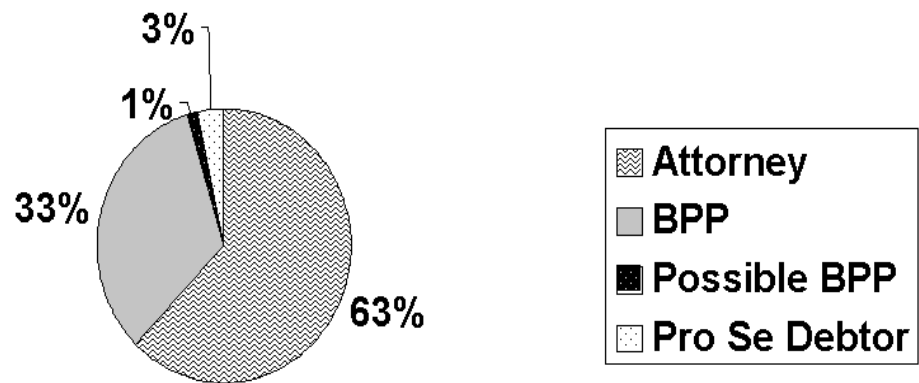
Type of Assistance Single: Below Poverty Level



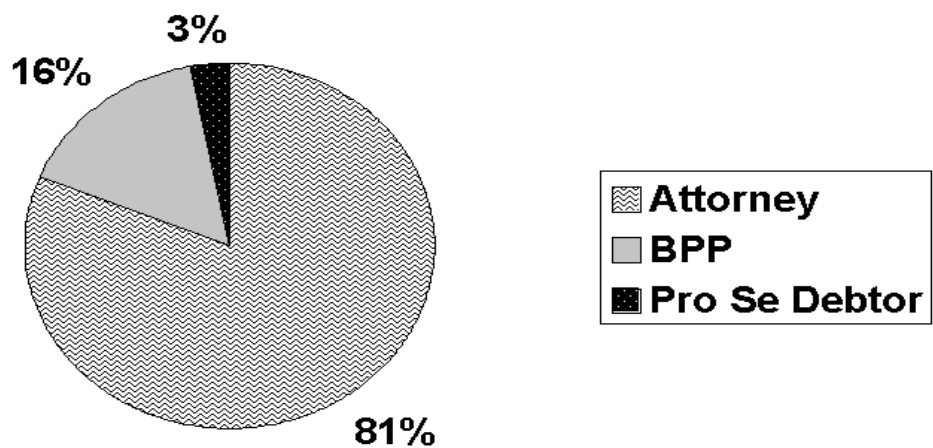
Type of Assistance MFJ: Below Poverty Level



Type of Assistance Single: Within Modest Means Level



Type of Assistance MFJ: Within Modest Means Level



Income Levels by Type of Attorney Representation

Single

	Totals for all Attorneys		Attorney General Scope		Attorney Limited Scope	
	#	%	#	%	#	%
≤ PVT	490	14%	14	16%	476	13%
\$1 above PVT ≤ 125%	263	7%	10	11%	253	7%
\$1 above 125% ≤ 150%	289	8%	4	5%	285	8%
\$1 above 150% ≤ \$4000	2477	68%	56	64%	2421	69%
>4000	102	3%	4	4%	98	3%
Total	3621		88		3533	

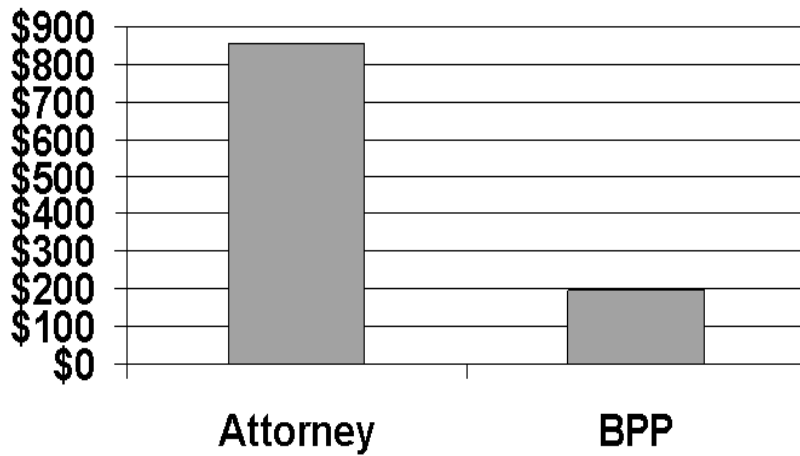
MFS

	Totals for all Attorneys		Attorney General Scope		Attorney Limited Scope	
	#	%	#	%	#	%
≤ PVT	192	14%	5	19%	187	14%
\$1 above PVT ≤ 125%	59	4%	0	0%	59	4%
\$1 above 125% ≤ 150%	93	7%	1	4%	92	7%
\$1 above 150% ≤ \$4000	927	68%	19	70%	908	68%
>4000	83	6%	2	7%	81	6%
Total	1354		27		1327	

MFJ

	Totals for all Attorneys		Attorney General Scope		Attorney Limited Scope	
	#	%	#	%	#	%
≤ PVT	92	4%	2	4%	90	4%
\$1 above PVT ≤ 125%	71	3%	1	2%	70	3%
\$1 above 125% ≤ 150%	87	4%	1	2%	85	4%
\$1 above 150% ≤ \$4000	1468	64%	34	64%	1434	65%
>4000	559	25%	15	28%	544	24%
Total	2277		53		2223	

Average Professional Fees



Avg Attorney Fees by Division

